

AT A SPECIAL JOINT BOARD OF SUPERVISORS/TOWN COUNCIL
MEETING HELD AT GERMANN'S DANIEL TECHNOLOGY CENTER, 18121
TECHNOLOGY DRIVE, ROOM 221 THURSDAY, FEBRUARY 4, 2010.

Board Members Present:

Brad C. Rosenberger, Chairman

Larry W. Aylor, Vice-Chairman

Sue D. Hansohn

Steven E. Nixon

William C. Chase, Jr.

Tom S. Underwood

Steven L. Walker

Staff Present:

Frank T. Bossio, County Administrator

John C. Egertson, Planning Director

Paul Howard, Environmental Services Director

Jim Hoy, County Engineer

Donna B. Foster, Deputy Clerk

Barry A. Atchison, Assistant to the Deputy Clerk

Town Council Present:

Pranas A. Rimeikis, Mayor

William M. Yowell, Vice-mayor

Calvin L. Coleman

Duke M. duFrane (departed at 7:03 p.m.)

Laurel Gravatte

James C. Risner

Robert M. Ryan

Town Council Absent:

Christopher H. Snider

Michael T. Olinger

Town Staff Present:

Jeff Muzzy, Town Manager

Robert Bendall, Town Attorney

Chris Hively, Environmental Services Director

Ron Mabrey, Town Finance Director/Treasurer

Kimberly Allen, Town Clerk

CALL TO ORDER

Mr. Rosenberger, Chairman of the Board of Supervisors, and Mr. Rimeikis, Town Mayor called the meeting to order at 6:04 p.m. Mayor Rimeikis noted for the record that Mr. Olinger and Mr. Snider were absent.

Mr. Bossio recommended the Board of Supervisors amend the agenda in order

for the Board to consider declaring a state of emergency, due to the impending snow storm, so the Town and County can apply for State Emergency funds.

Mr. Underwood moved, Mr. Walker seconded, to amend the agenda in order to declare a state of emergency.

Mr. Rosenberger called for a voice vote.

Ayes - Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker
Motion carried 7 to 0.

Mr. Underwood moved, Mr. Walker seconded, to ratify the Resolution for the Declaration of a Local Emergency.

Mr. Rosenberger called for a voice vote.

Ayes - Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker
Motion carried 7 to 0.

Mr. Muzzy distributed copies to each member and projected for the audience a Power Point presentation entitled Town-County Water & Sewer Authority/Boundary Line Adjustment. He noted there was some duplication in the Town and County presentations then reviewed each slide for the Board and Council members.

At the end of Mr. Muzzy's presentation Mr. Underwood stated he would like to dispense with the County presentation because he felt the Board and Council members had seen enough to begin discussions. Mr. Risner disagreed and stated he would like to hear the County position so both parties could fully discuss the issues with the understanding of what the other party was thinking.

Mr. Rosenberger stated he felt having the County Administrator review the County's position could shorten some of the discussion and asked Mr. Bossio to present the County's position.

Mr. Bossio mentioned there were several things the Board and Council wanted to see from the last meeting. He remarked one of the items the Town wanted was the removal of the growth limitation boundaries of Route 29 and the outer loop road. He recalled in the previous meeting there was a great deal of discussion on this topic and in the end the County acquiesced to removing those boundaries. He noted there was also discussion on limiting the boundaries in some other way and the County agreed to the Town's proposal of expansion linked to the limits of the water and sewer service area boundaries. It was his and Mr. Muzzy's understanding that the single biggest point of contention coming into that evenings discussion was the issue of triggers. He explained what he and Mr. Muzzy had tried to do was keep it simple, so rather than try to do a lot of financial triggers and other things they tried to do something simple to

understand.

Mr. Egertson then reviewed a brief slide presentation of the County's position and a sample economic trigger for the Town's expansion into the water & sewer service area. He explained the trigger in detail and what County staff was proposing for the Town to be eligible for a boundary line adjustment. He suggested the overall area have a gross retail sales figure of \$2,000,000 per acre per year, adjusted for inflation or \$5.70 per square foot which he mentioned was the same result as what Mr. Muzzy had proposed just presented in rounded figures.

Mr. Underwood commented the \$2,000,000 was in error. He related that he had done the math for the presentation and had done it in his head and had obviously done it in error. He clarified \$200,000 was what was meant on \$5.70 per square foot not two million. Brief discussion followed.

Mr. Rosenberger commented to Mr. duFrane, based on earlier discussion it was his impression that Mr. duFrane did not like the idea of triggers and asked if based on what was just presented if Mr. duFrane and Council would be amenable to this type of trigger. Mr. duFrane replied personally he felt it was something reasonable to consider. Mr. Rosenberger related it was his impression from previous discussions the Town did not want raw land; it needed something of value before the Town would consider taking it in.

Mr. Yowell added the bottom line was, in the future, the Town would need more revenue and adjusting the boundary line so that it follows water and sewer is the logical approach. Mr. Risner's was concerned that it would be made so complicated that in a few years the Town and County are back at water and sewer negotiations and the attorneys are taking it apart. He stated the Town is being asked to give up a valuable resource and he felt a lot of parameters were being put on what the Town can or cannot do to adjust the boundary line. He noted the County has asked the Town to give up the water & sewer system, a valuable resource, to the Authority, and now a lot of hard work is being done to determine the terms and conditions, when at a previous meeting the County said they were losing a fraction of a percent of revenue.

Mrs. Hansohn commented her underlying question was the value of the assets the Town would be turning over. She felt that was a critical piece of the discussion that has not been answered along with how much revenue the Town will lose. Mr. Risner responded it was not just revenue the Town would lose it was also the capital value of the asset. He stated on the other hand the County does not lose money when the Town adjusts its boundary into the County he felt it may actually help the County. He added the two bodies should not focus solely on economic triggers and not make them so hard that no one understands them.

Mrs. Hansohn responded the Authority would provide the same service that the Town is currently providing to Town residents and asked what revenue would the Town citizens lose from the asset.

Mr. Rosenberger added the Council has talked of loss of revenue by transferring the water and sewer system to an authority. He asked if the Town was using the revenue from the water and sewer system for other things. Mr. Risner responded that Mr. Muzzy had addressed the Town's finances and revenue several times in regards to the water and sewer plant.

Mr. Bossio commented the Town has asked to recover that revenue in the agreement; it was one of the items in Mr. Muzzy's presentation.

Mr. Nixon summarized that the Town was asking for was that two types of revenue to be financially recovered, both operational expenditures and a return on the Town's investment.

Mayor Rimeikis commented on the sample trigger, in which he felt the figures presented seemed arbitrary and he did not know what they were based on. He did not feel it considered the cost of the Town providing services for the area and may not allow the Town to break even. He commented he did not know the reason for putting a financial limitation on a boundary adjustment.

Mrs. Hansohn asked how the Town would determine when an area is to be taken in. Mayor Rimeikis replied he just did not feel a financial trigger was the right trigger.

Mr. Bossio responded what he and the Board heard from the Council at the previous meeting, was the Council did not like boundaries the way they were originally presented. Council wanted to go anywhere within the water and sewer service area. Mr. Bossio described the trigger as a way to try and ensure that there is some order in which it will be done and it was the simplest model possible. He explained the formula allows the Council to capture any specific piece if they want it. He stated it also allows the Town the capability of reaching out and getting something that is in competition if the situation arises. He noted with this type formula, the Town could have picked up Lowes when it was built.

Mr. Risner felt a simpler option was to tie Town growth to the water and sewer growth and not having to wait until there is a financial tie to the land. As growth occurs in the water and sewer service area then the Town should be able to boundary line adjust and not be constrained because the formula says it has to generate this much revenue. Discussion of several scenarios and how they fit the trigger formula ensued.

Mr. Chase commented Mr. Rosenberger, Mrs. Hansohn, and Mr. Nixon had all three asked specific questions and had not received answers. He stated he liked to hear questions answered specifically and not have the meeting go to another topic without answering the questions. Mr. Rosenberger stated he hoped to have all of the questions answered before the meeting ended.

Mr. Nixon and Mr. Muzzy discussed the intent of slide 14 of the Town presentation, the specific compensation the slide referred to and the value of the current assets.

Mrs. Hansohn asked how much revenue does the Town use to fund the operational costs and other of the water and sewer processes per year. Mr. Muzzy replied it would be over a million dollars but it is much more complicated than that because of cost sharing and maximizing the use of resources for both the utility and the general Town government.

Mrs. Hansohn noted the Board will have to have real number at some point to see what is needed financially.

Mayor Rimeikis agreed with Mrs. Hansohn but felt the two governing bodies were still trying to develop the concept at that time.

Mrs. Hansohn felt everyone understood the concept it was the amount of money involved that was not clearly understood.

Mr. Rosenberger commented he did not understand the concept. He suggested if the Town is cost sharing then the water and sewer systems must be carrying much more than its cost and illustrated his point with a farming scenario.

Mr. Bossio asked if the plant was owned by the tax payers or by the rate payers; he thought it was the rate payers.

Mr. Underwood asked if the plant was allowed to make money by law. Mayor Rimeikis responded he did not think so. Mr. Underwood then asked what is something worth that makes no money.

Mr. duFrane replied, it is worth nothing, but if you are looking at replacement costs it may be worth a lot.

Mr. Rosenberger commented if we have a joint water and sewer authority the Town will not have to replace it, the authority will be in charge of system repairs and replacement.

Mr. Chase added, by law, the authority is not allowed to make money so all the money collected is put back into the system.

Mr. Bossio concluded if the rate payers own it then it will only be a shift in the operational management and the rate payers will still be the owners just with a different management hierarchy. He added it is just a shift of who is in control of the asset, the plant will not physically move but the authority assumes the liability. Mr. Bossio concluded by expressing his thoughts on the advantages of controlled boundary line adjustments as opposed to annexation for the Town's expansion.

Mr. Risner asserted no one was discussing annexation, and he felt it was not the appropriate time to.

Mr. Bossio concluded by saying he thought getting the ability to boundary line adjust any where the Town wants, with less costs and restrictions than annexation, was a pretty robust capability for the trade-off of having a water and sewer authority manage the water and sewer system.

Mr. Rosenberger referenced Mr. Risner's comment on annexation and felt annexation was a significant point of discussion that needed to be resolved in that night's meeting. Mr. Rosenberger cited the Town's presentation slide number 11 pointing out the Town wanted the ability to withdraw at specific increments with a one year notice. He thought because of these caveats, annexation was a matter of discussion.

Mr. duFrane believed both the Council and Board members were all talking about economics. He noted that Mr. Underwood made a very important point that there is a test for all of the boundary line adjustments and the Board understands them very well. The Town; however, has no means of testing them to see how they work. He related that he personally thought since it is a matter of economics the Council needed to do some modeling with the numbers to see what they mean. He added modeling would show them the effect after 5 or 10 years and then the Council could see the results.

Mr. Chase remarked that what Mr. duFrane was saying was if Council does not like what is happening after 5 years, the Town can unilaterally drop out of the agreement and not because something did or did not happen. General discussion of economic triggers versus modeling ensued.

Mr. Aylor observed a lot of information had been discussed during the meeting and some of it seemed to confuse some of the Board and Council members including him. He suggested that more information had been put out than many of the members could handle. He thought there were a lot of points that both parties agree on and they

will take care of themselves. He referenced Mr. duFrane's comments on triggers and related when he first heard of triggers he questioned them as well. He told of how he had worked with Mr. Underwood and Mr. Bossio until he understood. He suggested if the trigger was a point of contention then maybe the two bodies should work on that one issue to see if it will work. He emphasized he believed the two bodies needed to find common ground and work together. Finally he recommended the discussions take one issue at a time until it is resolved because that is what is best for the community.

Mr. Nixon appreciated Mr. Aylor's comments but differed slightly. During the previous meeting he felt substantial progress had been made. He thought both parties were in agreement on having triggers and having staff present detailed triggers for this meeting only to find out at this meeting triggers were not acceptable to Council. He thought the 25 year limit on annexation was a point of agreement at the previous meeting only to find that topic was in contention at this meeting. His opinion was this meeting had set discussions back three steps.

Mr. Risner stated he was not comfortable with the 5, 10 and 15 year withdrawal caveat from the annexation agreement and thought the Council needed to discuss that further. He suggested both the Board and Council had gained some insight on the others perspective of the points of contention during the discussion. He related he felt he had gained a better understanding of the County's point of view and did not agree with Mr. Nixon's assessment of taking 3 steps back.

Mr. Nixon responded the Board and Council had been talking about finances for at least one and half years. He stressed the Board needed to know specifically what was financially needed for the Town to replace what would be lost by transferring the water and sewer plants to an authority. He specified if the Town is asking for restitution on a yearly basis then the Board needs to know specifically what that amounted to. He concluded, that knowing this would determine if the County or the Authority would make it up or if it can be done at all.

Mayor Rimeikis replied the Town had done that in the past in at least one meeting, and the Council was not trying to withhold the figures. He stated if Council had known specific figures were needed for that night's meeting they would have had them, and been able to explain cost allocation, equipment sharing, and operational expenses better.

Mr. Nixon noted if Mr. duFrane was going to look into modeling the scenarios then Council would need accurate figures to examine.

Mr. Yowell agreed with Mr. Aylor and felt from that evening's discussion he had a better understanding of the triggers. He added he could probably promise in the

Town's model, Council would not have revenue growth at \$200,000 an acre for retail sales. He thought now that council had a better understanding they could put together information on the plant value and include figures that reflect the cost of trash and police services for the trigger and come back with those figures at the next meeting.

Mr. Underwood added the goal of the trigger was not to hinder or limit the Town, the goal was to maximize the Town. He stated staff was trying to have a low level that the Council could look at it and see if it meets whatever complexity or simplicity Council desires and the County is out of the way.

Mr. Aylor did not believe the group had taken 3 steps back and shared his thoughts on what he believed had been accomplished. He concluded saying that he would not expect the Council to do anything that was not positive for the Town.

Mrs. Hansohn reiterated the Board would need to know how much the plant is worth, how much has been invested in buildings and upgrades, and how much the liability was. She advised Council the Board did not want to give Town citizens the impression that the County was trying to take something away from the Town. General discussion of the value of the water and sewer plant and how to correctly determine current value ensued.

Mayor Rimeikis advised for the next meeting the Town staff would prepare a briefing on revenues Council perceives as being lost and Council will also provide information on the Town's requirement for a return on equity and see if that is something that can be moved over to the agreement side.

Mr. Aylor suggested the Town identify some areas they would want a model of and County staff could provide a model based on existing development.

Mayor Rimeikis suggested that discussing the trigger concept one on one with someone familiar with it would help him grasp the concept.

Mr. Walker and Mr. Coleman spoke briefly on the economic development advantages to both the Town and County of establishing a water and sewer authority.

Mr. Nixon asked what had been agreed on tonight.

Mr. Muzzy stated what he had heard was the Mayor suggesting that Council will be prepared to present a briefing on the financial and revenue details at the next meeting and also be prepared to speak on the issue of return on the equity investment. He noted it was previously agreed that the revenue and financial data would not be presented until after the concept discussions had ended but he saw it was important to address the issued now.

Mr. Bossio added it was his understanding that more information and discussion of the concept of triggers were needed.

Mr. Risner asked Town staff to provide the financial information to both the Council and Board members prior to the meeting so the members are not seeing the information for the first time at the next meeting.

Mr. Rosenberger suggested the Town run models on what they are anticipating as revenues on the various taxes, expenses, and fees, he thought the models would provided a good point of discussion.

Mr. Bossio added the County does not care what the expenses are that will trigger the boundary line adjustment that was the Town's business.

General discussion among members ensued.

Mr. Underwood noted one point of contention that had not been addressed was office parks where the Town would desire to boundary line adjust.

Mr. Rosenberger believed it would have to be determined by what was eligible and allowable in light industrial area and he thought that was a planning and zoning issue.

Mr. Walker asked what the thinking was behind the 5, 10, and 15 withdrawal clause.

Mr. Risner stated that was one of the things that Council needed to discuss, along with triggers, to determine their position and recommendation as a group.

Mayor Rimeikis added the numbers were picked at random. He commented Council's feeling was, not being able to see the future, if something drastically changes for the Town or County why continue if the agreement is no longer good.

Mr. Nixon felt if there is an agreement it should be for a specified time. He thought that once it went before the three judge panel they would set a specific period of time.

Mayor Rimeikis suggested maybe using language that refers to renegotiations at those intervals.

Mr. Nixon asked to return to his original question, which was what are the two parties agreeing on tonight.

Mayor Rimeikis responded that was for the Board to decide because it was Council's position that had been presented to the Board.

Mrs. Hansohn commented she did not think the two parties had agreed on anything.

Mr. Walker said he heard the Town would at least go back and look at the 5, 10, 15 year withdrawal clause and unless there was significant justification the County was set on 25 years.

Mr. Risner commented he also thought that was an issue and Council needed to determine their position and come back and discuss it at the next meeting. He added they are asking staff to give them more information on the triggers and the financial information and Council would be prepared to discuss those issues as will. He believed the negotiations were moving forward and getting into the details phase.

Mr. Nixon did not disagree with the Town's concept of the financial trigger but he felt gross retail sales revenue does not give the Town a clear picture of what revenue will be derived from the area they are looking at. He stated the trigger concept in general was a way to make boundary line adjustments simple, he agreed there may be some other way to do it that needs to be looked at. He commented if it needs to be adjusted it needs to be adjusted and the two bodies could work on it.

Mr. Coleman stated there are parts of the County that should be in Town because they are urban areas, they look and feel urban and maybe the Town should be providing trash and police services.

Mr. Muzzy added some of the thinking on the Town side was about the unknown, suppose things do change. He described several scenarios he felt were not addressed by the trigger scenario, he thought that earlier discussions of renegotiation clauses in the agreement may satisfy some of the concerns on how to deal with the unforeseen in the future.

Mr. Nixon related he had been on the Board for 6 years and the Town and County have been talking about the very same issue for the same length of time. He believed that at some point in the very near future the two bodies were going to have to decide either yes or no on going through with the agreement. He recalled that the boundary line adjustment had been the major issue since day one. He felt there were many other hard issues that also needed to be addressed and the two bodies needed to move forward.

Mr. Risner felt that the negotiations were moving forward and were transitioning

from the concept phase to the detail phase and the list of points of agreement was growing while points of contention were decreasing.

Mr. Walker referenced Town slide 13 and asked if the November 2010 referendum date was firm or the "or later" was firm.

Brief discussion of the June court mandated deadline and the ramifications ensued.

Mrs. Hansohn inquired about the return of the \$3,000,000 the County had paid the Town previously for water and sewer taps and had not been used.

Mayor Rimeikis and Mr. Risner responded it would be included as an action item at the next Council meeting.

Following a brief discussion, the next meeting was set for March 4, 2010 at 6:00 p.m.

ADJOURNMENT

Mr. Underwood moved to adjourn

The meeting adjourned at 7:39 p.m.

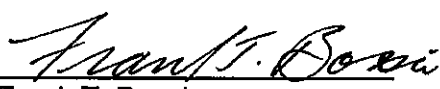


Barry A. Atchison
Assistant to the Deputy Clerk



Brad Rosenberger, Chairman

ATTEST:



Frank T. Bossio
Clerk to the Board